



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,240	02/06/2004	Richard E. Waitkus JR.	016093.0118	9102
23640	7590	05/25/2005	EXAMINER	
BAKER BOTTS, LLP			LAU, TUNG S	
910 LOUISIANA			ART UNIT	
HOUSTON, TX 77002-4995			PAPER NUMBER	
			2863	

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

gm

Office Action Summary

Application No.

10/774,240

Applicant(s)

WAITKUS, RICHARD E.

Examiner

Tung S. Lau

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-28 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date See office action.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Preliminary Amendment

1. Preliminary Amendment filed on 5/11/2004 is noted and accepted by the examiner.

Information Disclosure Statement

2. Information Disclosure Statement filed on 02/06/2004 is acknowledged by the examiner; A copy of a signed PTO-1449 attached with this office action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 and 13-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Schomisch et al. (U.S. Patent 5,967,028).

Regarding claim 1:

Schomisch discloses a material management system including: one or more waste containers adapted to receive and compact waste (fig. 1, unit 20); a fullness-measuring subsystem for determining the fullness of one or more waste containers; a computerized scheduling subsystem in communication with the fullness-measuring subsystem for automatically determining an optimal time to empty each waste container (Col. 4-5, Lines 58-39, Col. 5-6, Lines 51-13), based

Art Unit: 2863

one or more scheduling factors including the fullnesses of the waste container and scheduling factors related to predicted future usage (Col. 11-12, Lines 45-8), Col. 5-6, Lines 51-13).

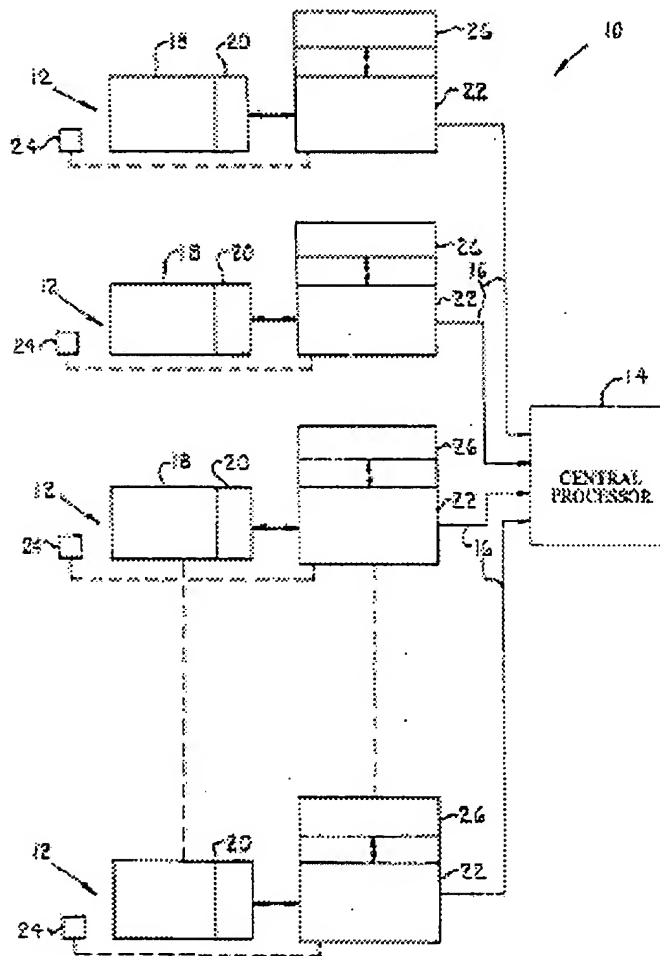


FIG. 1

Regarding claim 15:

Schomisch discloses a computerized method for scheduling a pick up time to remove of one or more waste containers, including, for each waste container (abstract), automatically determining a fullness of the waste container (Col. 5-6, Lines 40-13); automatically determining when a waste container will a target level

of fullness, based on the current fullness and predicted future usage (Col. 5-6, Lines 40-13); automatically determining an optimal time to remove the waste container, based on when the waste container will reach a target level of fullness (Col. 5-6, Lines 40-13), customer preferences, and waste hauler limitations (Col. 5-6, Lines 40-13); and automatically scheduling the removal of the waste container for the optimal time (Col. 5-6, Lines 40-13).

Regarding claim 24:

Schomisch discloses a computer program, stored on a tangible storage medium, for use in scheduling a pick up time to remove one or more waste containers, the computer program including executable indications that cause a computer to (Col. 5-6, Lines 40-13), for each waste container (fig. 1); determine a fullness of the waste container; determine when the waste container will reach a target level of fullness, based on the current fullness and predicted future usage (Col. 5-6, Lines 40-13); determine an optimal time to remove the waste container, based on the predicted time, customer preferences, and waste hauler limitations (Col. 5-6, Lines 40-13); and schedule the removal of the waste container for the optimal time (Col. 5-6, Lines 40-13).

Regarding claim 2, Schomisch discloses the scheduling factors related to the predicting future usage include customer preferences and waste hauler limitations (Col. 5-6, Lines 40-13); Regarding claim 3, Schomisch discloses

Art Unit: 2863

including the optimal time is the latest time that satisfies customer preferences and waste hauler limitations (Col. 5-6, Lines 40-13, fig. 2a, unit 43, 44);

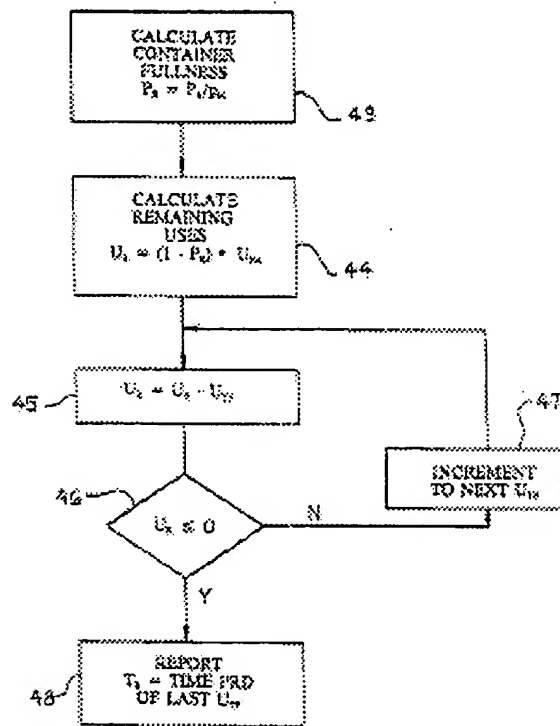


FIG 2A

Regarding claim 4, Schomisch discloses a preference that the customer's waste container only reach a certain level of fullness (fig. 2a, unit 43); Regarding claim 5, Schomisch discloses a number of drivers available at a specified time (fig. 1, unit 12); Regarding claim 6, Schomisch discloses if no time satisfies customer preferences and waste hauler limitations, the computerized scheduling system will choose an optimal time that satisfies one or more customer preferences (Col. 5-6, Lines 40-13); Regarding claim 7, Schomisch discloses if no time satisfies customer preferences and waste hauler limitations, the computerized scheduling system will choose an optimal time that satisfies one or more waste hauler

limitation (Col. 5-6, Lines 40-13); Regarding claim 8, Schomisch discloses including a communication subsystem in communication with the computerized scheduling subsystem for notifying the waste hauler when to remove the waste container (Col. 5-6, Lines 40-13); Regarding claims 9, 22, Schomisch discloses subject to user intervention (Col. 5-6, Lines 40-13); Regarding claims 10, 23, Schomisch discloses user-intervention includes a user determining when to schedule the removal of a waste container (Col. 5-6, Lines 40-13); Regarding claim 11, Schomisch discloses the predicted future usage is based on statistical analysis, performed by the computerized scheduling sub-system, of customer usage patterns including prior recorded fullnesses (Col. 5-6, Lines 40-13, Col. 1, Lines 49-64); Regarding claim 13, Schomisch discloses causes the fullness-measuring subsystem to determine again the fullness of the waste container and the optimal pickup time, a lead time before scheduling the waste container removal; and if the optimal removal time has changed, determining again when to accomplish the scheduling of the waste container removal (Col. 5-6, Lines 40-13, Col. 2-3, Lines 54-3); Regarding claim 14, Schomisch discloses determines when to accomplish the scheduling of the waste container removal, based on the optimal time and one or more waste hauler limitations (Col. 5-6, Lines 40-13).

Regarding claims 16, 25, Schomisch discloses percentage of the fullness (Col. 2, Lines 30-40); Regarding claim 17, Schomisch discloses percentage of the

fullness is about 100% (Col. 2, Lines 30-40, Col. 5-6, Lines 40-13); Regarding claims 18, 26, Schomisch discloses automatically determining when to accomplish the scheduling of the waste container removal, based on the optimal time and one or more waste hauler limitations (Col. 5-6, Lines 40-13); Regarding claim 19, Schomisch discloses latest time to accomplish the scheduling (Col. 6, Lines 1-14); Regarding claims 20, 27, Schomisch discloses automatically determining again the fullness of the waste container and the optimal pickup time, a lead time before scheduling the waste container removal, and if the optimal removal time has changed, determining again when to accomplish the scheduling of the waste container removal (Col. 5-6, Lines 40-13, Col. 2-3, Lines 54-3);); Regarding claim 21, Schomisch discloses including customer usage pattern (Col. 5-6, Lines 40-14); Regarding claim 28, Schomisch discloses when determining the waste container will reach the target level of fullness (Col. 5-6, Lines 40-13).

Claim Objections


4. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitation of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: prior art fail to teach linear regression patterns.

Art Unit: 2863

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 571-272-2274. The examiner can normally be reached on M-F 9-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


MICHAEL NGHIEM
PRIMARY EXAMINER

TL

5/23/05